



General Assembly

January Session, 2001

Raised Bill No. 6725

LCO No. 3598

Referred to Committee on Public Health

Introduced by:
(PH)

***AN ACT CONCERNING CERTIFICATION AND BACKGROUND
CHECKS FOR HOME HEALTH AIDES AND BACKGROUND CHECKS
FOR EMERGENCY MEDICAL TECHNICIANS, FOR CERTAIN
CAREGIVERS AND FOR NURSING HOME EMPLOYMENT.***

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

- 1 Section 1. (NEW) As used in sections 1 to 3, inclusive, of this act:
- 2 (1) "Commissioner" means the Commissioner of Public Health;
- 3 (2) "Department" means the Department of Public Health;
- 4 (3) "Home health aide" means a person employed by a home health
- 5 care agency or a homemaker-home health aide agency, as defined
- 6 respectively in section 19a-490 of the general statutes, as amended by
- 7 this act, who has direct contact with the patients to whom such
- 8 agencies provide service, but does not include (A) health care
- 9 providers licensed, certified or registered by the state, or (B) persons,
- 10 hired directly by the patient, including, but not limited to, personal
- 11 care assistants; and
- 12 (4) "Certified home health aide" means a home health aide who has

13 been issued a certification pursuant to section 3 of this act.

14 Sec. 2. (NEW) (a) Except as provided in subsection (b) of this
15 section, no home health care agency or homemaker-home health aide
16 agency, as defined respectively in section 19a-490 of the general
17 statutes, as amended by this act, may employ a person as a home
18 health aide, unless: (1) The aide is a certified home health aide; and (2)
19 the agency obtains a state criminal history records check on the home
20 health aide that has been conducted within six months of the date of
21 hire. If the department does not have available a state criminal history
22 records check that has been conducted within such time period, the
23 agency may conduct its own state criminal history records check and
24 may charge the cost of doing so to the home health aide. If the agency
25 conducts such check, it shall file a copy of the results of such check
26 with the department.

27 (b) Notwithstanding the requirements of subsection (a) of this
28 section, a home health care agency or homemaker-home health aide
29 agency may employ a person to perform the duties of a home health
30 aide provided: (1) The agency has requested a state criminal history
31 records check from the department or has commenced its own state
32 criminal history records check on the person; (2) the person is applying
33 or has applied to become a certified home health aide; and (3) the
34 person performs home health aide duties only under the direct
35 supervision of a nurse licensed under chapter 378 of the general
36 statutes pending certification and the results of the criminal history
37 records check.

38 (c) Each home health care agency or homemaker-home health aide
39 agency shall report in writing to the department and to local law
40 enforcement officials any allegation or evidence of abuse, neglect or
41 misappropriation of a patient's funds or property by any employee of
42 the agency. The agency shall make such report not later than seventy-
43 two hours after obtaining knowledge of the incident. The report shall
44 not be subject to disclosure under the Freedom of Information Act, as

45 defined in section 1-200 of the general statutes, and the report shall not
46 contain the name of the patient unless the patient requests such
47 disclosure. No person making a report in good faith under this
48 subsection shall be liable in any civil action for damages brought by
49 the employee. Compliance with this subsection shall not relieve any
50 person from the duty to comply with the reporting requirements of
51 chapter 319dd of the general statutes concerning protective services for
52 the elderly, chapter 319a of the general statutes concerning child
53 welfare, chapter 813 of the general statutes concerning protection and
54 advocacy for persons with disabilities, or any other reporting
55 requirements of the general statutes.

56 Sec. 3. (NEW) (a) No person may use the title "certified home health
57 aide" or make use of any title, words, letters or abbreviations that may
58 reasonably be confused with certification as a home health aide unless
59 certified under this section.

60 (b) The department shall establish and maintain a procedure for the
61 certification of home health aides. If an applicant for certification as a
62 home health aide has provided or submitted to a criminal history
63 records check, the results shall not be subject to disclosure under the
64 Freedom of Information Act, as defined in section 1-200 of the general
65 statutes, provided the applicant may authorize release of the criminal
66 history records check.

67 (c) The department shall issue a certification as a home health aide
68 to any person who successfully completes home health aide training, a
69 competency test and an evaluation program approved by the
70 department. The training, competency testing and evaluation may be
71 conducted by a home health care agency, a homemaker-home health
72 aide agency or other entity that the department approves for such
73 training, competency testing and evaluation. An applicant for
74 certification as a home health aide need not be employed by a home
75 health care agency, a homemaker-home health aide agency or other
76 such entity in order to qualify for such certification.

77 (d) Application for certification as a home health aide shall be on
78 forms prescribed by the department. The form shall require the
79 applicant's Social Security number.

80 (e) The application fee for initial certification under this section shall
81 be twenty-five dollars. A certification may be renewed pursuant to
82 section 19a-88 of the general statutes, as amended by this act, for a fee
83 of twenty-five dollars.

84 (f) The department may adopt regulations, in accordance with
85 chapter 54 of the general statutes, to implement the provisions of
86 sections 1 to 3, inclusive, of this act.

87 (g) The department may take any action set forth in section 19a-17 of
88 the general statutes if a certified home health aide fails to conform to
89 the accepted standards of the home health aide profession, including,
90 but not limited to, the following: (1) Conviction of a felony; (2) fraud or
91 deceit in professional practice; (3) illegal conduct; (4) negligent,
92 incompetent or wrongful conduct in professional activities; (5)
93 emotional disorder or mental illness; (6) physical illness including, but
94 not limited to, deterioration through the aging process; (7) abuse or
95 excessive use of drugs, including alcohol, narcotics or chemicals; (8)
96 wilful falsification of entries in any client or patient record; (9)
97 misrepresentation or concealment of a material fact in the obtaining or
98 reinstatement of a home health aide certificate; or (10) violation of any
99 provision of this section or section 2 of this act. The commissioner may
100 order a certified home health aide to submit to a reasonable physical or
101 mental examination if such home health aide's physical or mental
102 capacity to practice safely is the subject of an investigation. The
103 commissioner may petition the superior court for the judicial district of
104 Hartford to enforce such order or any action taken pursuant to section
105 19a-17 of the general statutes. Notice of any contemplated action under
106 section 19a-17 of the general statutes, the cause of the action and the
107 date of a hearing on the action shall be given and an opportunity for
108 hearing afforded in accordance with the provisions of chapter 54 of the

109 general statutes.

110 Sec. 4. (NEW) (a) As used in this section, "caregiver" means any
111 individual whose employment or contractual service with any agency
112 includes providing direct care services or having routine physical
113 access to clients of the agency or having routine access to the financial
114 records or assets of such clients, but does not include a home health
115 aide, as defined in section 1 of this act.

116 (b) The Commissioner of Public Health shall conduct a state
117 criminal history records check of any caregiver who may be employed
118 or otherwise engaged by any agency to provide direct care services,
119 including, but not limited to, respite care, to clients of such agency
120 having physical or mental disabilities. The commissioner shall conduct
121 such criminal history records check, prior to or within six months of
122 such caregiver being so employed or engaged, upon the written
123 request of any agency that intends to employ or otherwise engage such
124 caregiver. The commissioner may charge a fee for requests made
125 under this section that shall not exceed the actual cost of such criminal
126 history records check. The provisions of this subsection shall not apply
127 to (1) any caregiver who is licensed, certified or registered by the state
128 and is acting within the scope of the caregiver's license, certificate or
129 registration in providing such direct care services, or (2) any caregiver
130 who is required to submit to a state or federal criminal history records
131 check under any other provision of the general statutes in order to
132 provide such direct care services.

133 (c) If the caregiver has provided or submitted to a criminal history
134 records check, the results shall not be subject to disclosure under the
135 Freedom of Information Act, as defined in section 1-200 of the general
136 statutes, provided the caregiver may authorize release of the criminal
137 history records check.

138 (d) The commissioner may adopt regulations, in accordance with
139 chapter 54 of the general statutes, to carry out the provisions of this
140 section.

141 (e) The Division of State Police, within the Department of Public
142 Safety, shall assist the commissioner in conducting a state criminal
143 history records check of any caregiver under subsection (b) of this
144 section, shall arrange for the fingerprinting of such caregiver and shall
145 forward such fingerprints to the State Police Bureau of Identification
146 for completion of such state criminal history records check.

147 Sec. 5. Subsection (c) of section 19a-14 of the general statutes is
148 repealed and the following is substituted in lieu thereof:

149 (c) No board shall exist for the following professions that are
150 licensed or otherwise regulated by the Department of Public Health:

- 151 (1) Speech pathologist and audiologist;
- 152 (2) Hearing aid dealer;
- 153 (3) Nursing home administrator;
- 154 (4) Sanitarian;
- 155 (5) Subsurface sewage system installer or cleaner;
- 156 (6) Marital and family therapist;
- 157 (7) Nurse-midwife;
- 158 (8) Licensed clinical social worker;
- 159 (9) Respiratory care practitioner;
- 160 (10) Asbestos contractor and asbestos consultant;
- 161 (11) Massage therapist;
- 162 (12) Registered nurse's aide;
- 163 (13) Radiographer;
- 164 (14) Dental hygienist;

- 165 (15) Dietitian-Nutritionist;
- 166 (16) Asbestos abatement worker;
- 167 (17) Asbestos abatement site supervisor;
- 168 (18) Licensed or certified alcohol and drug counselor;
- 169 (19) Professional counselor;
- 170 (20) Acupuncturist;
- 171 (21) Occupational therapist;
- 172 (22) Lead abatement contractor; [and]
- 173 (23) Nail technician; and
- 174 (24) Certified home health aide.

175 The department shall assume all powers and duties normally vested
176 with a board in administering regulatory jurisdiction over said
177 professions. The uniform provisions of this chapter and chapters 368v,
178 369 to 381a, inclusive, 383 to 388, inclusive, 393a, 395, 398, 399, 400a
179 and 400c, including, but not limited to, standards for entry and
180 renewal; grounds for professional discipline; receiving and processing
181 complaints; and disciplinary sanctions, shall apply, except as otherwise
182 provided by law, to the professions listed in this subsection.

183 Sec. 6. Subsection (c) of section 19a-14 of the general statutes, as
184 amended by section 8 of public act 00-226, is repealed and the
185 following is substituted in lieu thereof:

186 (c) No board shall exist for the following professions that are
187 licensed or otherwise regulated by the Department of Public Health:

- 188 (1) Speech pathologist and audiologist;
- 189 (2) Hearing aid dealer;

- 190 (3) Nursing home administrator;
- 191 (4) Sanitarian;
- 192 (5) Subsurface sewage system installer or cleaner;
- 193 (6) Marital and family therapist;
- 194 (7) Nurse-midwife;
- 195 (8) Licensed clinical social worker;
- 196 (9) Respiratory care practitioner;
- 197 (10) Asbestos contractor and asbestos consultant;
- 198 (11) Massage therapist;
- 199 (12) Registered nurse's aide;
- 200 (13) Radiographer;
- 201 (14) Dental hygienist;
- 202 (15) Dietitian-Nutritionist;
- 203 (16) Asbestos abatement worker;
- 204 (17) Asbestos abatement site supervisor;
- 205 (18) Licensed or certified alcohol and drug counselor;
- 206 (19) Professional counselor;
- 207 (20) Acupuncturist;
- 208 (21) Occupational therapist;
- 209 (22) Lead abatement contractor;
- 210 (23) Nail technician; [and]

211 (24) Certified home health aide; and

212 ~~[(24)]~~ (25) Athletic trainer.

213 The department shall assume all powers and duties normally vested
214 with a board in administering regulatory jurisdiction over said
215 professions. The uniform provisions of this chapter and chapters 368v,
216 369 to 381a, inclusive, 383 to 388, inclusive, 393a, 395, 398, 399, 400a
217 and 400c, including, but not limited to, standards for entry and
218 renewal; grounds for professional discipline; receiving and processing
219 complaints; and disciplinary sanctions, shall apply, except as otherwise
220 provided by law, to the professions listed in this subsection.

221 Sec. 7. Subsection (e) of section 19a-88 of the general statutes is
222 repealed and the following is substituted in lieu thereof:

223 (e) Each person holding a license or certificate issued under section
224 3 of this act, section 19a-514, 20-74s, 20-195cc or 20-206ll and chapters
225 370 to 373, inclusive, 375, 378 to 381a, inclusive, 383 to 388, inclusive,
226 393a, 395, 398, 399 or 400a and section 20-206n, 20-206o or 20-266c
227 shall, annually, during the month of such person's birth, apply for
228 renewal of such license or certificate to the Department of Public
229 Health, giving such person's name in full, such person's residence and
230 business address and such other information as the department
231 requests. Each person holding a license or certificate issued pursuant
232 to section 20-475 or 20-476 shall, annually, during the month of such
233 person's birth, apply for renewal of such license or certificate to the
234 department. Each entity holding a license issued pursuant to section
235 20-475 shall, annually, during the anniversary month of initial
236 licensure, apply for renewal of such license or certificate to the
237 department.

238 Sec. 8. Subsection (e) of section 19a-88 of the general statutes, as
239 amended by section 9 of public act 00-226, is repealed and the
240 following is substituted in lieu thereof:

241 (e) Each person holding a license or certificate issued under section
242 3 of this act, section 19a-514, 20-65k, 20-74s, 20-195cc or 20-206ll and
243 chapters 370 to 373, inclusive, 375, 378 to 381a, inclusive, 383 to 388,
244 inclusive, 393a, 395, 398, 399 or 400a and section 20-206n, 20-206o or
245 20-266c shall, annually, during the month of such person's birth, apply
246 for renewal of such license or certificate to the Department of Public
247 Health, giving such person's name in full, such person's residence and
248 business address and such other information as the department
249 requests. Each person holding a license or certificate issued pursuant
250 to section 20-475 or 20-476 shall, annually, during the month of such
251 person's birth, apply for renewal of such license or certificate to the
252 department. Each entity holding a license issued pursuant to section
253 20-475 shall, annually, during the anniversary month of initial
254 licensure, apply for renewal of such license or certificate to the
255 department.

256 Sec. 9. Section 19a-179 of the general statutes is repealed and the
257 following is substituted in lieu thereof:

258 The commissioner shall adopt regulations, in accordance with
259 chapter 54, concerning the methods and conditions for licensure and
260 certification of the operations, facilities and equipment enumerated in
261 section 19a-177 and regulations regarding complaint procedures for
262 the public and any emergency medical service organization. Such
263 regulations shall be in conformity with the policies and standards
264 established by the commissioner. Such regulations shall require that, as
265 an express condition of the purchase of any business holding a
266 primary service area, the purchaser shall agree to abide by any
267 performance standards to which the purchased business was obligated
268 pursuant to its agreement with the municipality. Such regulations shall
269 require that any person submitting an application for certification as
270 an emergency medical technician on or after October 1, 2001, shall
271 submit to state and national criminal history records checks.

272 Sec. 10. Subdivision (d) of section 19a-490 of the general statutes is

273 repealed and the following is substituted in lieu thereof:

274 (d) "Home health care agency" means a public or private
275 organization, or a subdivision thereof, engaged in providing
276 professional nursing services and the following services, available
277 twenty-four hours per day, in the patient's home or a substantially
278 equivalent environment: [Homemaker-home] Home health aide
279 services, [as defined in this section,] physical therapy, speech therapy,
280 occupational therapy or medical social services. The agency shall
281 provide professional nursing services and at least one additional
282 service directly and all others directly or through contract. An agency
283 shall be available to enroll new patients seven days a week, twenty-
284 four hours per day.

285 Sec. 11. Subdivision (f) of section 19a-490 of the general statutes is
286 repealed and the following is substituted in lieu thereof:

287 [(f) "Homemaker-home health aide services" as defined in this
288 section]

289 (f) "Home health aide services" shall not include services provided
290 to assist individuals with activities of daily living when such
291 individuals have a disease or condition that is chronic and stable as
292 determined by a physician licensed in the state of Connecticut.

293 Sec. 12. Subsection (c) of section 19a-491 of the general statutes is
294 repealed and the following is substituted in lieu thereof:

295 (c) For purposes of this chapter, an institution shall include any
296 person or public or private agency which either advertises, arranges
297 for or provides [a homemaker health aide or homemaker-home] home
298 health aide services in a patient's home or a substantially equivalent
299 environment.

300 Sec. 13. Subsection (e) of section 19a-491 of the general statutes is
301 repealed and the following is substituted in lieu thereof:

302 (e) The commissioner may require as a condition of the licensure of
303 home health care agencies and homemaker-home health aide agencies
304 that each agency meet minimum service quality standards. In the
305 event the commissioner requires such agencies to meet minimum
306 service quality standards as a condition of their licensure, [he] the
307 commissioner shall adopt regulations in accordance with the
308 provisions of chapter 54 to define such minimum service quality
309 standards, which shall allow for training of [homemaker-home health
310 care] home health aides by adult continuing education.

311 Sec. 14. Section 19a-491b of the general statutes is repealed and the
312 following is substituted in lieu thereof:

313 (a) Any person who is licensed to establish, conduct, operate or
314 maintain a nursing home shall notify the Commissioner of Public
315 Health immediately if the owner, conductor, operator or maintainer of
316 the home, any person described in subdivision (3) of subsection (a) of
317 section 19a-491a, or any nurse or nurse's aide has been convicted of (1)
318 a felony, as defined in section 53a-25, (2) cruelty to persons under
319 section 53-20, or (3) assault of a victim sixty or older under section 53a-
320 61a; or has been subject to any decision imposing disciplinary action
321 by the licensing agency in any state, the District of Columbia, a United
322 States possession or territory or a foreign jurisdiction. Failure to
323 comply with the notification requirement of this subsection shall
324 subject the licensed person to a civil penalty of not more than one
325 hundred dollars.

326 (b) Each nursing home shall require a person described in
327 subdivision (3) of subsection (a) of section 19a-491a or a nurse or
328 nurse's aide to complete and sign an application form which contains
329 questions as to whether the person has been convicted of any crime
330 specified in subsection (a) of this section or has been subject to any
331 decision imposing disciplinary action as described in said subsection.
332 Any person seeking employment in a position connected with the
333 provision of care in a nursing home who makes a false written

334 statement regarding such prior criminal convictions or disciplinary
335 action shall be guilty of a Class A misdemeanor.

336 (c) On and after October 1, 2001, no nursing home may hire any
337 person for a position as a nurse's aide unless the nursing home obtains
338 a state criminal history records check on such person that has been
339 conducted within twenty-four months of the date of hire. The
340 Department of Public Health shall supply the nursing home with such
341 state criminal history records check. If the department does not have
342 available, in the registry of nurse's aides established under section 20-
343 102bb, a state criminal history records check that has been conducted
344 within such time period, the department shall conduct a state criminal
345 history records check on such person.

346 (d) Notwithstanding the requirements of subsection (c) of this
347 section, a nursing home may employ a person to perform the duties of
348 a nurse's aide subject to the condition of obtaining a state criminal
349 history records check on such person, provided the nursing home has
350 requested a state criminal history records check on such person from
351 the department or has commenced its own state criminal history
352 records check on such person.

353 (e) No nursing home may disclose or use any criminal history
354 background information acquired under this section for any purpose
355 except a determination of employment. A violation of this subsection
356 shall be deemed an unfair or deceptive trade practice under subsection
357 (a) of section 42-110b. Any nursing home that, in good faith, fails to
358 employ or discharges any conditionally employed person based upon
359 information contained in a state criminal history records check
360 obtained pursuant to this section shall be immune from civil and
361 criminal liability that might otherwise be incurred or imposed based
362 on the refusal to hire or discharge.

363 ~~[(c)]~~ (f) (1) The Division of State Police within the Department of
364 Public Safety shall assist the Department of Public Health in
365 conducting criminal background investigations of persons described in

366 subdivision (1) of subsection (a) of section 19a-491a.

367 (2) The Division of State Police, within the Department of Public
368 Safety, shall assist any nursing home in conducting a state criminal
369 history records check of any person under final consideration for
370 employment by such nursing home as a nurse's aide, shall arrange for
371 the fingerprinting of such person and shall forward such fingerprints
372 to the State Police Bureau of Identification for completion of such state
373 criminal history records check.

374 Sec. 15. This act shall take effect October 1, 2001, except that sections
375 6 and 8 shall take effect the later of October 1, 2001, or the date notice is
376 published by the Commissioner of Public Health in the Connecticut
377 Law Journal indicating that the licensing of athletic trainers and
378 physical therapist assistants is being implemented by the
379 commissioner.

Statement of Purpose:

To require certification and background checks for home health aides,
and to require background checks for certain caregivers, for emergency
medical technicians, and for nursing home employment.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline,
except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is
not underlined.]*